

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

In re: ARC AIRBAGS INFLATORS  
PRODUCTS LIABILITY LITIGATION

ALL CASES

Case No.: 1:22-md-03051-ELR

MDL No. 3051

Judge: Eleanor L. Ross

**PLAINTIFFS' NOTICE OF  
NHTSA SUPPLEMENTAL  
INITIAL DECISION**

Plaintiffs bring to the Court's attention the "Supplemental Initial Decision That Certain Frontal Driver and Passenger Air Bag Inflators Manufactured by ARC Automotive Inc. and Delphi Automotive Systems LLC, and Vehicles in Which Those Inflators Were Installed, Contain a Safety Defect," issued by the National Highway Traffic Safety Administration ("NHTSA") today on August 5, 2024, and published in the Federal Register at 89 Fed. Reg. 63473. *See Ex. A* ("Supplemental Initial Decision").

The Supplemental Initial Decision, issued as part of NHTSA's investigation into the safety defect in ARC's frontal driver and passenger airbag inflators, confirms the agency's initial decision (Dkt. 165) that the approximately 51 million hybrid, toroidal inflators at issue in this multidistrict litigation "contain a defect related to motor vehicle safety." *See Ex. A*, 89 Fed Reg. at 63474.

After more than six months of careful analysis and consideration of ARC's and automakers' detailed explanations of why the inflators are not defective—many of which parallel the arguments Defendants made in their pending motions to dismiss in this case—NHTSA rejected all of them. Instead, NHTSA found that “[t]hese air bag inflators are at risk of rupturing when the vehicle's air bag is commanded to deploy, causing metal debris to be forcefully ejected into the occupant compartment of the vehicle.” *Id.*

The federal auto safety regulator also determined that “[the inflator defect] poses an unreasonable risk of serious injury or death to vehicle occupants,” and the agency expects “[a]dditional inflator ruptures . . . to occur in the future, risking more serious injury and deaths, if they are not recalled and replaced.” *Id.* at 63474–75. In short: “An inflator that is at risk of rupturing when commanded to deploy is flawed. *It turns a lifesaving device into one that can do great harm, including causing death or serious injury.*” *Id.* at 63477 (emphasis added).

NHTSA also noted that while certain manufacturers previously “issued a small recall” targeted at the production lots of ruptured inflators, the agency’s investigation has revealed that “ruptures have occurred in inflators manufactured across different time periods, plants, and manufacturing lines, thus warranting a broader recall.” *Id.* at 63476. Indeed, NHTSA observed that, “[a]fter the most recent rupture, GM apparently recognized that a lot-based recall was no longer sufficient,”

yet “the ensuing recall was limited to specific model years and models of vehicles,” which “fails to address the full population of GM vehicles containing the subject inflators.” *Id.* at 63477 n.31. In all, manufacturers’ “[l]imited-scope recalls initiated in response to some of the ruptures” were “reactionary and narrowly focused,” and “did not proactively address the propensity of the larger population of subject inflators to rupture.” *Id.* at 63478. The agency determined that “[a]s a result, ruptures continued to occur.” *Id.*

NHTSA further explained that “[w]hile the actual occurrence of ruptures is rare, the subject inflators’ **risk of rupture nevertheless constitutes a defect**, especially when considering the nature and purpose of an inflator and the severity of the risk to vehicle occupants.” *Id.* (emphasis added); *see also id.* at 63490 (concluding “all of the subject inflators have a risk of rupture and are defective”).

NHTSA has provided an additional 30-day comment period through September 4, 2024, to allow for “additional transparency” in the process but stated “[n]o additional public meeting will be held.” *Id.* at 63490.

Dated: August 5, 2024

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**CERTIFICATE OF SERVICE**

On August 5, 2024, I hereby certify that I have caused a true and correct copy of the foregoing to be filed with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing to all counsel of record.

/s/ David Stellings  
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